



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2011-0148; A-1-FRL-9901-71-Region 1]

#### **Approval and Promulgation of Air Quality Implementation Plans; Rhode Island: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct Final rule.

**SUMMARY:** EPA is taking direct final action to approve certain revisions to the Rhode Island State Implementation Plan (SIP) primarily relating to regulation of Greenhouse Gases (GHGs) under Rhode Island's Prevention of Significant Deterioration (PSD) preconstruction permitting program. EPA is also taking direct final action to approve the State's definition of "PM<sub>2.5</sub>" (fine particulate matter) specific to permitting. Certain of the State's revisions consist of definitions that also relate more broadly to the State's PSD and nonattainment new source review (NSR) preconstruction permitting requirements, i.e., to stationary sources that also emit regulated new source review pollutants other than GHGs. EPA is also taking direct final action to conditionally approve those definitions as they relate to the non-GHG pollutants, for the reasons described in more detail later in this notice. All of the revisions in question were submitted by Rhode Island, through the Rhode Island Department of Environmental Management (RI DEM) Office of Air Resources, on January 18, 2011. They are primarily intended to align Rhode Island's regulations with EPA's "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule." Finally, EPA is not taking action on certain other SIP revisions contained in RI DEM's January 18, 2011 submittal.

**DATES:** This direct final rule will be effective [**Insert date 60 days from date of publication in the Federal Register**], unless EPA receives adverse comments by [**Insert date 30 days from date of publication in the Federal Register**]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2011-0148 by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [dahl.donald@epa.gov](mailto:dahl.donald@epa.gov)
3. Fax: (617) 918-0167
4. Mail: "Docket Identification Number EPA-R01-OAR-2011-0148", Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 – 3912.
5. Hand Delivery or Courier: Deliver your comments to: Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square - Suite 100, (mail code OEP05-2), Boston, MA 02109 - 3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R01-OAR-2011-0148. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov), or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or

in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency; Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Rhode Island SIP, contact Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square - Suite 100, (mail code OEP05-2), Boston, MA 02109 - 3912. Mr. Dahl's telephone number is (617) 918-1657; e-mail address: [dahl.donald@epa.gov](mailto:dahl.donald@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

## **Table of Contents**

### **I. What is the Background for the Action by EPA in this Notice?**

#### **A. GHG-Related Actions**

#### **B. Rhode Island's Actions**

### **II. What is EPA's Analysis of Rhode Island's SIP Revision?**

### **III. Final Action**

### **IV. Statutory and Executive Order Reviews**

## **I. What is the Background for the Action by EPA in this Notice?**

The following sections briefly summarize EPA's recent GHG-related actions that provide the background for today's action as it relates to permitting requirements for GHGs. More detailed discussion of the background is found in the preambles for those actions. In particular, the background is contained in what we call the GHG PSD SIP Narrowing Rule<sup>1</sup>, and in the preambles to the actions cited therein.

### **A. GHG-related Actions**

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part distinct from one another, establish the overall framework for today's action on the Rhode Island SIP. Four of these actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a

---

<sup>1</sup> "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule." 75 FR 82536 (Dec. 30, 2010).

single final action,<sup>2</sup> the “Johnson Memo Reconsideration,”<sup>3</sup> the “Light-Duty Vehicle Rule,”<sup>4</sup> and the “Tailoring Rule.”<sup>5</sup> Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources.

PSD is implemented through the SIP system. In December 2010, EPA promulgated several rules to implement the new GHG PSD SIP program. Recognizing that some states had approved SIP PSD programs that did not apply PSD to GHGs, EPA issued a SIP call and, for some of these states, a Federal Implementation Plan (FIP).<sup>6</sup> Recognizing that other states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tpy of GHG, and that do not limit PSD applicability to GHGs to the higher

---

<sup>2</sup> “Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act.” 74 FR 66496 (Dec. 15, 2009).

<sup>3</sup> “Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs.” 75 FR 17004 (Apr. 2, 2010).

<sup>4</sup> “Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule.” 75 FR 25324 (May 7, 2010).

<sup>5</sup> “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule.” 75 FR 31514 (June 3, 2010).

<sup>6</sup> Specifically, by notice dated December 13, 2010, EPA finalized a “SIP Call” that would require those states with SIPs that have approved PSD programs but do not authorize PSD permitting for GHGs to submit a SIP revision providing such authority. “Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call,” 75 FR 77698 (Dec. 13, 2010). EPA has made findings of failure to submit that would apply in any state unable to submit the required SIP revision by its deadline, and finalized FIPs for such states. See, e.g., “Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases,” 75 FR 81874 (Dec. 29, 2010); “Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan,” 75 FR 82246 (Dec. 30, 2010). Because Rhode Island’s SIP already authorizes Rhode Island to regulate GHGs once GHGs became subject to PSD requirements on January 2, 2011, Rhode Island was not subject to the proposed SIP Call or FIP.

thresholds in the Tailoring Rule, EPA issued the GHG PSD SIP Narrowing Rule. Under that rule, EPA withdrew its approval of the affected SIPs to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the “error correction” provisions of CAA section 110(k)(6).

## **B. Rhode Island’s Actions**

On August 3, 2010, Rhode Island provided a letter to EPA, in accordance with a request to all States from EPA in the Tailoring Rule, with confirmation that the State has the authority to regulate GHGs in its PSD program. The letter also confirmed that current Rhode Island rules require regulating GHGs at the existing 100/250 tpy threshold, rather than at the higher thresholds set in the Tailoring Rule. See the docket for this rulemaking for a copy of Rhode Island’s letter.

In the SIP Narrowing Rule, published on December 30, 2010, EPA withdrew its approval of Rhode Island’s SIP (among other SIPs) to the extent the SIP applies PSD permitting requirements to GHG emissions from sources emitting at levels below those set in the Tailoring Rule.<sup>7</sup> As a result, Rhode Island’s current approved SIP provides the state with authority to regulate GHGs, but only at and above the Tailoring Rule thresholds; and requires new and modified sources to receive a PSD permit based on GHG emissions only if they emit at or above the Tailoring Rule thresholds.

The basis for this SIP revision is that limiting PSD applicability to GHG sources to the higher thresholds in the Tailoring Rule is consistent with the SIP provisions that provide required assurances of adequate resources, and thereby addresses the flaw in the SIP that led to the SIP

---

<sup>7</sup> “Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule.” 75 FR 82536 (Dec. 30, 2010).

Narrowing Rule. Specifically, CAA section 110(a)(2)(E) includes as a requirement for SIP approval that States provide “necessary assurances that the State . . . will have adequate personnel [and] funding . . . to carry out such [SIP].” In the Tailoring Rule, EPA established higher thresholds for PSD applicability to GHG-emitting sources on grounds that the states generally did not have adequate resources to apply PSD to GHG-emitting sources below the Tailoring Rule thresholds,<sup>8</sup> and no State, including Rhode Island, asserted that it did have adequate resources to do so.<sup>9</sup> In the SIP Narrowing Rule, EPA found that the affected states, including Rhode Island, had a flaw in their SIPs at the time they submitted their PSD programs, which was that the applicability of the PSD programs was potentially broader than the resources available to them under their SIPs.<sup>10</sup> Accordingly, for each affected state, including Rhode Island, EPA concluded that EPA’s action in approving the SIP was in error, under CAA section 110(k)(6), and EPA rescinded its approval to the extent the PSD program applies to GHG-emitting sources below the Tailoring Rule thresholds.<sup>11</sup> EPA recommended that States adopt a SIP revision to incorporate the Tailoring Rule thresholds, thereby (i) assuring that under State law, only sources at or above the Tailoring Rule thresholds would be subject to PSD; and (ii) avoiding confusion under the federally approved SIP by clarifying that the SIP applies to only sources at or above the Tailoring Rule thresholds.<sup>12</sup>

## **II. What is EPA’s Analysis of Rhode Island’s SIP Revision?**

Rhode Island is currently a SIP-approved state for the PSD program. In a letter provided to EPA on August 3, 2010, Rhode Island notified EPA of its interpretation that the

---

<sup>8</sup> Tailoring Rule, 75 Fed. Reg. 31517.

<sup>9</sup> SIP Narrowing Rule, 75 Fed. Reg. 82540.

<sup>10</sup> Id. at 82542.

<sup>11</sup> Id. at 82544.

<sup>12</sup> Id. at 82540.

State currently has the authority to regulate GHGs under its PSD regulations. The current Rhode Island program (adopted prior to the promulgation of EPA's Tailoring Rule) applies to major stationary sources (having the potential to emit at least 100 tpy or 250 tpy or more of any air pollutant, depending on the type of source) or modifications constructing in areas designated attainment or unclassifiable with respect to the National Ambient Air Quality Standards (NAAQS).

The regulatory revisions that RI DEM submitted on January 18, 2011 included Air Pollution Control (APC) Regulations 9, 28, and 29, each in their entirety. In correspondence dated February 11, 2011, however, RI DEM clarified that it was withdrawing its SIP revision request in relation to APC Regulations 28 and 29 because those regulations establish the State's CAA Title V operating permit program, which is not a SIP program under the CAA. Consequently, EPA's action today does not include taking action to approve Rhode Island's changes to Regulations 28 and 29, but only includes certain changes to APC Regulation 9.

The State's January 18, 2011 submittal also contained amendments to several other sections of APC Regulation 9 as last approved into Rhode Island's SIP on December 2, 1999 (64 FR 67495). With the exception of the State's definition of "PM<sub>2.5</sub>," EPA is not taking action on these revisions, which do not affect GHG PSD permitting requirements.

The SIP revisions EPA is taking action on today consist (with one exception) of definitions within APC Regulation 9 that are necessary for the purpose of the GHG PSD permitting requirements discussed in this notice. Some of these definitions also apply to PSD and nonattainment new source review permitting requirements applicable to regulated new source review pollutants other than GHG. One of the definitions only relates to PM<sub>2.5</sub> (fine particulate matter). Specifically, the changes that EPA is taking action on today are definitions

of the following terms contained in APC Regulation 9: 1) “Major modification”; 2) “Net emissions increase”; 3) “Regulated NSR pollutant”; 4) “Significant emissions increase”; 5) “Subject to Regulation”; 6) “Baseline actual emissions”; 7) “Significant”; 8) “PM<sub>2.5</sub>”; and 9) “Major Stationary Source”. Definitions for the first eight of these terms appear in APC Regulation Section 9.1, while the last definition appears in APC Regulation Section 9.5.1(f). These changes to Rhode Island’s preconstruction permitting program regulations include the same amendments to the federal PSD regulatory provisions found in EPA’s Tailoring Rule for GHG, with the exception that Rhode Island’s PSD and nonattainment new source review preconstruction permitting programs do not include the new source review reforms (NSR Reforms) promulgated by EPA in 2002<sup>13</sup>. Because of that exception, Rhode Island has submitted to EPA, pursuant to 40 C.F.R. § 51.166(a)(7), a technical demonstration, dated September 18, 2013 and entitled “State Implementation Plan Equivalency Demonstration For Greenhouse Gas Emissions under the PSD Program,” showing that its PSD permitting requirements, as they apply to stationary sources of GHGs, are more stringent than, or are at least as stringent in all respects as, the corresponding provisions of EPA’s NSR Reforms. *See* 40 C.F.R. § 51.166(a)(7). EPA is therefore taking action to approve fully Rhode Island’s PSD GHG SIP revisions. Rhode Island’s September 18, 2013 technical demonstration can be found in the Docket for this action. EPA is also taking action to approve fully the State’s definition of “PM<sub>2.5</sub>.”<sup>14</sup>

---

<sup>13</sup> Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects; Final Rule” 67 FR 80186 (Dec. 31, 2002)

<sup>14</sup> Note that Rhode Island’s definition of “regulated NSR pollutant” does not explicitly contain the language in 40 C.F.R. § 51.166(b)(49)(i) addressing the inclusion of the gaseous, condensable portions of PM<sub>2.5</sub> and PM<sub>10</sub> for the purposes of major stationary source preconstruction permitting applicability determinations and establishing permit limits. However, by letter submitted to EPA Region 1 and dated September 18, 2013, Rhode Island explained that its major stationary source preconstruction permitting program does, in fact, require inclusion of the condensable portion of PM<sub>10</sub> and PM<sub>2.5</sub>. That is because APC Regulation 9 of the State’s regulations defines those two pollutants

However, insofar as those same definitions also apply to PSD and nonattainment new source review for major stationary sources and modifications involving regulated NSR pollutants other than GHGs, EPA is today conditionally approving Rhode Island's requested SIP revisions pending submission by Rhode Island of a technical demonstration, pursuant to 40 C.F.R. § 51.166(a)(7), that Rhode Island's PSD and nonattainment new source review permitting programs are more stringent than, or at least as stringent in all respects as, EPA's NSR Reform provisions for stationary sources of regulated NSR pollutants other than GHGs.

Under section 110(k)(4) of the Act, EPA may conditionally approve a plan based on a commitment from a State to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. EPA is conditionally approving in this direct final rulemaking Rhode Island's SIP revisions (as they apply to major stationary sources of regulated NSR pollutants other than GHGs) based on the State's commitment to submit the technical demonstration identified above within one year of the approval. If Rhode Island fails to do so in a timely manner, our conditional approval will, by operation of law, become a disapproval one year from this direct final conditional approval. EPA would notify Rhode Island by letter that such action had occurred. At that time, the SIP revisions in question would not be a part of Rhode Island's approved SIP. If that were to occur, EPA would subsequently publish a document in the **Federal Register** notifying the public the conditional approval automatically converts to a disapproval. If Rhode Island meets its commitment within the applicable time frame, however, EPA would subsequently publish a document in the **Federal Register** notifying the public that EPA intends to convert the conditional approval to a full approval. By letter dated September 18, 2013, Rhode Island committed to submitting that demonstration to EPA no later

---

in terms of an amount measured at ambient air conditions. Consequently, because the gaseous, condensable portions of PM<sub>10</sub> and PM<sub>2.5</sub> would have converted to condensed form at ambient air conditions, Rhode Island's requirements meet the corresponding federal requirements.

than one year from the effective date of this approval. On December 29, 2005, Rhode Island submitted a technical demonstration to EPA Region 1 asserting the State's PSD and nonattainment new source review permitting programs were, at that time, at least as stringent as the federal program (including NSR Reform). EPA concluded, however, that the State's technical demonstration did not contain all of the elements needed and so could not be accepted for its intended purpose. Hence, EPA's conclusion, described in this notice, that the State must submit a revised technical demonstration within one year of today's action. The December 29, 2005 submittal can be found in the Docket for this action.

### **III. FINAL ACTION:**

Pursuant to section 110 of the CAA, EPA is fully approving Rhode Island's January 18, 2011 SIP revisions as they relate to major new and modified stationary sources of GHG. EPA is also fully approving the State's definition of "PM<sub>2.5</sub>". The GHG-related revisions establish appropriate emissions thresholds for determining PSD applicability with respect to major new or modified GHG-emitting stationary sources, in accordance with EPA's June 3, 2010, Tailoring Rule. With this approval, EPA also amends 40 CFR 52.2072 by removing subsection (b).

Pursuant to section 110(k)(4) of the CAA, EPA is conditionally approving Rhode Island's January 18, 2011 SIP revisions as they relate to major new and modified stationary sources of regulated NSR pollutants other than GHGs (with the exception, noted earlier in this notice, that EPA is fully approving the State's definition of "PM<sub>2.5</sub>").

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the

proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revisions should relevant adverse comments be filed. This rule will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice unless the Agency receives relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**.

If the EPA receives such comments, then EPA will publish a notice withdrawing today's final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days from date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely

approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that this rule will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an

immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 20, 2013

H. Curtis Spalding,  
Regional Administrator,  
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### **PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

### **Subpart OO - Rhode Island**

2. In § 52.2070 the table in paragraph (c) is amended by revising entry for “Air Pollution Control Regulation 9” to read as follows:

#### **§ 52.2070 Identification of plan.**

(c) EPA Approved regulations.

### **EPA-Approved Rhode Island Regulations**

State citation	Title/subject	State effective date	EPA approval date	Explanations
----------------	---------------	----------------------	-------------------	--------------

**	*	*	*	**
Air Pollution Control Regulation 9	Air pollution control permits	1/31/2011	[Insert date of <u>FR</u> publication]  [Insert <u>Federal Register</u> page number where the document begins]	Definitions of “Major modification”; “Significant”; and “Net emissions increase” are amended in Section 9.1. Definitions of “Regulated NSR pollutant”; “Significant emissions increase”; “Baseline actual emissions”; and “Subject to Regulation” are added to Section 9.1. Definition of “Major stationary source” is amended in Section 9.5.1(f). Definition of “PM <sub>2.5</sub> ” is added to Section 9.1.
**	*	*	*	**

\* \* \* \* \*

### § 52.2072 [Amended]

3. Section 52.2072 is amended by removing and reserving paragraph (b).

[FR Doc. 2013-24847 Filed 10/23/2013 at 8:45 am; Publication Date: 10/24/2013]